

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0233

SENATE BILL NO. 48

Introduced by: The Committee on Commerce and Energy at the request of the Department
of Labor and Regulation

1 FOR AN ACT ENTITLED, An Act to require appraisal management companies to maintain a
2 surety bond or irrevocable letter of credit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-21D be amended by adding thereto a NEW SECTION to read
5 as follows:

6 An applicant for issuance or renewal of an appraisal management company registration shall
7 file with the Department of Labor and Regulation a surety bond with one or more corporate
8 sureties authorized to do business in this state or an irrevocable letter of credit issued by an
9 insured institution authorized to do business in South Dakota in the amount of twenty-five
10 thousand dollars. The surety bond or irrevocable letter of credit shall be conditioned upon the
11 following:

12 (1) That the appraisal management company pay all amounts owed to a person who
13 performs a real estate appraisal service for the company and pay all amounts
14 adjudged against the company by reason of a negligent or improper real estate
15 appraisal, a negligent or improper appraisal management service, or a breach of



1 contract in performing a real estate appraisal or appraisal management service; and
2 (2) That the surety company or insured institution provides written notice to the
3 department, by registered or certified mail, at least thirty days before the surety
4 company or insured institution cancels or revokes a surety bond or irrevocable letter
5 of credit or if the surety company or insured institution pays for a loss under the
6 surety bond or irrevocable letter of credit.

7 Section 2. That chapter 36-21D be amended by adding thereto a NEW SECTION to read
8 as follows:

9 An appraisal management company shall continuously maintain the surety bond or
10 irrevocable letter of credit required by this Act on file with the Department of Labor and
11 Regulation in the amount of twenty-five thousand dollars for the exclusive purpose of payment
12 of the obligations listed in subdivision (1) of section 1 of this Act. Upon termination,
13 cancellation, or reduction of the surety bond or irrevocable letter of credit to less than twenty-
14 five thousand dollars, the registered appraisal management company shall file a replacement
15 surety bond or irrevocable letter of credit within the time period established by the department
16 by rule or surrender the company's registration to the department and cease operating as an
17 appraisal management company.

18 Section 3. That chapter 36-21D be amended by adding thereto a NEW SECTION to read
19 as follows:

20 Any person damaged by an appraisal management company's failure to pay an obligation
21 listed in subdivision (1) of section 1 of this Act has a right of action against the surety bond or
22 irrevocable letter of credit. Any action against a surety bond or irrevocable letter of credit must
23 be filed in a court of competent jurisdiction within one year after the appraisal management
24 company fails to pay the amount owing or the amount adjudged against the appraisal

1 management company.

2 Section 4. That § 36-21D-4 be amended to read as follows:

3 36-21D-4. The secretary of the Department of Labor and Regulation may promulgate rules
4 pursuant to chapter 1-26 relating to appraisal management companies and appraisal management
5 services as follows:

- 6 (1) Registration of appraisal management companies;
- 7 (2) Definition of terms;
- 8 (3) Responsibilities and duties;
- 9 (4) Application for and issuance of certificate of registration;
- 10 (5) Renewal and late renewal procedures;
- 11 (6) Investigation and contracting for investigations;
- 12 (7) Complaints and grounds for disciplinary actions, including denial, revocation,
13 suspension, censure, and reprimand;
- 14 (8) Retention and inspection of records;
- 15 (9) Roster;
- 16 (10) Review of appraisal related records;
- 17 (11) Inspection, examination, and photocopy of records; ~~and~~
- 18 (12) National registry fee collection and remittance; and
- 19 (13) Filing of surety bonds or irrevocable letters of credit.